IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. 81-5826

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SUPREME COURT, U.S.

ROBERT D. YOUNG

Petitioner

vs.

THE UNITED STATES OF AMERICA

Respondent

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

REPLY TO
BRIEF FOR THE UNITED STATES IN OPPOSITION

GUY E. LABALME, ESQUIRE
P. O. Box 3125
Apollo Beach, Florida 33570
(813) 645-6898

No. 81-5826

ROBERT D. YOUNG, Petitioner

v.

UNITED STATES OF AMERICA

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE
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ARGUMENT

The government's Brief in Opposition at page 11 states that co-defendants Fisher and Young, as established by the evidence, had an unconsummated plan to acquire another building and burn it down in order to collect the insurance (50 Tr. 311, 313-314). This simply is not true.[1] It is evidence barred (82 Tr. 76-78, 83, 84) by petitioners' joint trial Motion in Limine (3 Tr. 370) that was granted by U.S. District judge William Terrell Hodges and subsequently ignored by the government and still not ruled upon by the 5th (now 11th)

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[1] On page 5 of its Brief in Opposition the government also erred in stating that Young arranged for the arsonist(s) to set fire to his property and submitted a fraudulent fire insurance claim.

Young did not own the peoperty in question. Co-defendant Fisher did. Nor did Young submit a fraudulent fire insurance claim.

circuit.[2]

The government's reference to this prejudicial testimony is improper. It is a continuing attempt to establish a pattern of racketeering activity making applicable the RICO statute to petitioners Fisher and Young.

Wherefore, petitioner seeks this Court's assistance in rectifying this highly prejudicial error by granting his Petition for Writ of Certiorari.

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[2] As pointed out on the first page of Young's Petition for Rehearing to the 5th Circuit affixed to the Petition for Writ of Certiorari sent this Court, the 5th Circuit never did rule on the Motion to Strike Part of Appellee's Brief filed with it on March 12, 1980. Basis for this motion was the heresay testimony barred by the trial Court in granting defendants trial Motion in Limine or, Alternately, Motion to Strike (82 Tr. 76-78, 83, 84).

Questioning of Willie Noriega by U.S. prosecutor Hogue: (50 Tr. 314)

Q. You mentioned they had talked to you, these two men had talked to you about an earlier deal?

A. Yes, sir. That is how I got to talk to them about arson.

Q. What was the earlier deal you had talked to them about?

A. Mr. Young and Mr. Fisher had some deal working in Miami through a Bucky Garcia on a big building they wanted burned and Bucky Garcia approached me with Mr. Fisher to have me burn the building in Miami.

Q. Did that come about?

A. No, sir. Y'all arrested Mr. Garcia before he could carry out the transaction.

JURISDICTION

In its brief the government stated that petitions No. 81-5280 and 81-5826 were not filed until December 7, 1981, and therefor are out of time under rules 20.1 and 20.4 of the Rules of this Court. However, petitioner did write this court for an extension of time until December 10, 1981.

Attorney for petitioner requests that the Petition for a Writ of Certiorari in this cause not be prejudiced for the following reasons:

Petitioner Young's Petition, as well as that of petitioner John Fisher's (No. 81-5820), were ready for timely filing with the Court on November 16, 1981.

However, since attorney Arthur Fisher, III (counsel for petitioner John Fisher) and the undersigned wished to edit their respective petitions, a telephone request for a brief time extension was made. The office of your Clerk of Court in turn suggested we send it a joint telegram, followed by a written motion for a time extension, both of which were done. Had petitioners' attorneys surmised from their November 16, 1981, telephone conversation with the Clerk of Court's office that the time extension might be denied, then the petitions (albeit not edited to ultimate satisfaction) would have been filed by November 16, 1981. A third petition (No. 81-5865) also was filed later (December 10, 1981).

Subsequently the government sought an extension of time until January 23, 1982, in which to file its response. On January 22, 1982, the government sought a second time extension, up to and including February 13, 1982, to file its response.

The length and complexity of the trial record and related appellate litigation were cited as necessary reasons for this second extension. Nowhere in its extension requests did the government mention the three late petitions for certicrari as contributing reasons. And, out of professional courtesy, petitioner did not object to the government's requests for these two time extensions.

No party has been harmed or prejudiced by petitioners' delayed filing or by the two extensions of time granted the government. Accordingly, petitioner respectfully asks that this Court grant his Petition for a Writ of Certiorari.

GUY E. LABALME
P. O. Box 3125
Apollo Beach, Florida 33570
(813) 645-6898

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U. S. Mail delivery by depositing it in the U. S. Post Office, addressed to all counsel for co-defendants and to Solicitor General, Department of Justice, Washington, D.C. 20530 and Sara Criscitelli, Appellate Division, Department of Justice, P.O. Box 899, Ben Franklin Station, Washington, D.C. 20004, pursuant to Supreme Court Rule 28, this 5th day of March, 1982.

GUY E. LABALME